STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

CENTRAL ILLINOIS LIGHT COMPANY	**)**	
d/b/a AmerenCILCO	**)**	
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CENTRAL ILLINOIS PUBLIC SERVICE	**)**	
COMPANY	**)**	
d/b/a AmerenCIPS	**)**	**07-0539**
	)	
ILLINOIS POWER COMPANY	**)**	
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	)	
Approval of the Energy Efficiency and	**)**	
Demand-Response Plan	**)**	

ORDER

February 6, 2008

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ORDER

By the Commission:

I. The Procedural History of This Docket

On November 5, 2007, the Ameren Illinois Utilities ("Ameren") filed their Petition seeking approval of their Energy Efficiency and Demand-Response Plan pursuant to 220 ILCS 5/12-103(f) of the Public Utilities Act (the "PUA"). In accordance with recently passed legislation, P.A. 95-0481 Ameren was were required to submit an Energy Efficiency and Demand-Response Plan in the manner prescribed by new Section 12-103 of the PUA 220 ILCS 5/12-103. Specifically, Section 12-103(f) required that by no later than November 15, 2007, each electric utility shall file an Energy Efficiency and Demand-Response Plan with the Illinois Commerce Commission to meet the energy efficiency and demand-response standards for 2008 through 2010. On November 15, 2007, Ameren filed a Plan in support of the Petition, supporting testimony and exhibits. The Illinois Department of Commerce and Economic Opportunity ("DCEO") also filed a petition, supporting direct testimony, and rebuttal testimony.

Testifying on behalf of Ameren were Stan E. Ogden, Vice President of Customer Service and Public Relations for the Ameren Illinois Utilities, supporting Ameren Exhibits 1.0 and 6.0.; Richard A. Voytas, Manager of Energy Efficiency and Demand Response for Ameren Services Company, supporting Ameren Exhibits 2.0, 2.1, 2.2, 2.3, 7.0, 7.1, 7.2, 7.3, and 7.4; Leonard M. Jones, Managing Supervisor of Restructured Services and Regulatory Policy and Planning, Ameren Services Company, supporting Ameren Exhibits 3.0, 3.1, and 8.0; Val R. Jensen, Senior Vice President with ICF International (a management, technology and policy consulting firm), supporting Ameren Exhibits 4.0,

4.1, 9.0, 9.1, 9.2, and 9.3; Vickiren S. Bilsland, Regulatory Specialist - Regulatory Policy and Planning, Ameren Services Company, supporting Ameren Exhibits 5.0 and 5.1.

The following parties intervened in this matter: the Attorney General of the State of Illinois, (the "AG"); BlueStar Energy Services, Inc.; the Citizens Utility Board, ("CUB") the Coalition of Energy Suppliers; Constellation Energy Commodities Group, Inc.; ConsumerPowerline; Environmental Law and Policy Center (the "ELPC"); the Environment Illinois Research and Education Center; the Kroger Company; the Natural Resources Defense Counsel (the "NRDC"); and, a coalition of Illinois Industrial Energy Consumers (the "IIEC").

Public forums to receive public comments regarding Ameren's Plan were held on November 27, 2007 and November 29, 2007.

Commission Staff and the following Intervenors filed direct testimony on December 14, 2007: The AG, CUB, the ELPC, the NRDC and the IIEC. Ameren filed rebuttal testimony on December 21, 2007.

Pursuant to notice duly given in accordance with the law and the rules and regulations of the Commission, an evidentiary hearing was held before duly authorized Administrative Law Judges ("ALJs") of the Commission, at its offices in Chicago, Illinois, on January 4, 2008. The hearing included three dockets; namely, 07-0539, (Ameren's Energy Efficiency docket), 07-0540 (the instant docket), and 07-0541 (DCEO's Energy Efficiency docket) simultaneously. The ALJs marked the record "Heard and Taken" on January 4, 2008. On that day, Staff moved to sever DCEO's docket and place the appropriate documents from that docket in 07-0539 and 07-0540. This motion was granted on January 9, 2008, *nunc pro tunc* to January 4, 2008. That ruling noted that DCEO has statutory obligations pursuant to the new statute, and thus it is really a joint petitioner in dockets 07-0539 and 07-0540. Therefore, the appropriate documents from 07-0541 were placed in the e-docket files for 07-0540 and 07-0539, effective January 4, 2008. The parties filed simultaneous briefs on January 14, 2008.

The statutorily-imposed mandate for commencing this docket was November 15, 2007. The statutorily-imposed deadline for a final Commission order in this docket is February 15, 2008. Despite the obviously severe limitations imposed by the General Assembly upon litigation of this matter, counsel for all entities and parties involved in this docket used extraordinary efforts to provide this Commission with a complete analysis of the issues involved in this docket. We note that the issues in this docket involve the statutorily-mandated imposition of energy efficiency and demand response standards, which are intended to reduce energy consumption, thereby reducing energy costs, pollution from emissions and the need to for new generation, transmission and distribution infrastructure. (220 ILCS 5/12-103(a)).

II. The Statutory Framework

On July 26, 2007, the Illinois General Assembly passed Senate Bill 1592. The Governor signed the bill into law on August 28, 2007, creating Public Act 95-0481 ("ATA. 95-0481"). Among the provisions of this comprehensive legislation, ATA 95-0481 creates a new Section 12-103 of the Public Utilities Act. Section 12-103 requires Illinois utilities, subject to the Act, to implement energy efficiency and demand response programs to meet aggressive energy reduction goals.

The statute provides that "[i]t is the policy of the State that electric utilities are required to use cost-effective energy efficiency and demand-response measures to reduce delivery load," and that to do so "will reduce direct and indirect costs to consumers by decreasing environmental impacts and by avoiding or delaying the need for new generation, transmission, and distribution infrastructure." (220 ILCS 5/12-103(a)). Further, "[i]t serves the public interest to allow electric utilities to recover costs for reasonably and prudently incurred expenses for energy efficiency and demand-response measures." (*Id*.). Thus, Section 12-103 provides that utilities should have the opportunity for full cost recovery for implementing energy efficiency and demand response programs.

Subsection (b) of that same statute requires utilities to "implement cost-effective energy efficiency measures to meet the following incremental annual energy savings goals: (1) 0.2% of energy delivered in the year commencing June 1, 2008; (2) 0.4% of energy delivered in the year commencing June 1, 2009; [and] (3) 0.6% of energy delivered in the year commencing June 1, 2010 . . . ." (220 ILCS 5/12-103(b)).

Subsection (c) of this statute addresses demand response, which "means measures that decrease peak electricity demand or shift demand from peak to off-peak periods." (20 ILCS 3855/1-10). Therefore, utilities must "implement cost-effective demand-response measures to reduce peak demand by 0.1% over the prior year for eligible retail customers." (220 ILCS 5/12-103(c)).[1]

"Cost-effective" as used in Section 12-103(b) and (c) are "measures [that] satisfy the total resource cost (the "TRC") test." (220 ILCS 5/12-103(a)). The Illinois version of the TRC test is defined as follows:

> A "Total Resource Cost test" or "TRC test" means a standard that is met if, for an investment in energy efficiency or demand-response measures, the benefit-cost ratio is greater than one. The benefit-cost ratio is the ratio of the net present value of the total benefits of the program to the net present

[1] "Eligible retail customers" are "retail customers that purchase power and energy from the electric utility under fixed-price bundled service tariffs, other than those retail customers whose service is declared or deemed competitive . . . and those other customer groups specified in this Section, including self-generating customers, customers with hourly pricing, or those customers who are otherwise ineligible for fixed-price bundled tariff service." (220 ILCS 5/16-111.5).

> value of the total costs as calculated over the lifetime of the measures. A total resource cost test compares the sum of avoided electric utility costs, representing the benefits that accrue to the system and the participant in the delivery of those efficiency measures, to the sum of all incremental costs of end-use measures that are implemented due to the program (including both utility and participant contributions), plus costs to administer, deliver, and evaluate each demand-side program, to quantify the net savings obtained by substituting the demand-side program for supply resources. In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included of financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(20 ILCS 3855/1-10). The Illinois version differs from the standard formulation in other states because generally, a TRC test requires that "the standard formulation includes the value of all energy savings attributable to a measure." The Illinois version, on the other hand, includes only the value of electricity savings; it excludes natural gas savings.

a. The Statutory Spending Screens

Subsection (d) of Section 12-103 modify Ameren's obligations under subsections (b) and (c). Section 12-103(d) provides for a "spending screen," which limits the Plan's effects on rates. It provides that:

> [A]n electric utility shall reduce the amount of energy efficiency and demand-response measures implemented in any single year by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to:
>
> (1) in 2008, no more than 0.5% of the amount paid per kilowatt hour by those customers during the year ending May 31, 2007;
>
> (2) in 2009, the greater of an additional 0.5% of the amount paid per kilowatt hour by those customers during the year ending May 31, 2008 or 1% of the amount paid per kilowatt hour by those customers during the year ending May 31, 2007;
>
> (3) in 2010, the greater of an additional 0.5% of the amount paid per kilowatt hour by those customers during the year ending May 31, 2009 or 1.5% of the amount paid per kilowatt hour by those customers during the year ending May 31, 2007.

(220 ILCS 5/12-103(d)).

b. Coordination with State Agencies

Section 12-103(e) of the statute requires that the utility and the Department of Commerce and Economic Opportunity ("DCEO") must share the duties of implementing the energy efficiency measures. Specifically, the statute provides that "[e]lectric utilities shall implement 75% of the energy efficiency measures approved by the Commission . . . . The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department . . . and must be designed in conjunction with the utility and the filing process." (220 ILCS 5/12-103(e)). At least 10% of the entire portfolio of cost-effective energy efficiency measures must be procured from units of local government, municipal corporations, school districts, and community college districts, and DCEO must "coordinate the implementation of such measures." (*Id*.). "The portfolio of measures, administered by both the utilities and [DCEO], shall, in combination, be designed to achieve the annual savings targets" in the statute. (*Id*.).

c. Cost Recovery

Consistent with the policy objectives in Section 12-103(a), to ensure effective energy efficiency and demand response programs, Section 12-103(e) permits the utility to recover the costs of such programs "through an automatic adjustment clause tariff filed with and approved by the Commission." (220 ILCS 5/12-103(e)). The statute also calls for the Commission to conduct an annual prudence "review to reconcile any amounts collected with the actual costs and to determine the required adjustment to the annual tariff factor to match annual expenditures." (*Id*.).

d. The Filing Requirements for Commission Approval of the Plan

The statute required the Ameren Illinois Utilities to jointly file, by November 15, 2007, a Plan with the Commission. This Plan must be designed to meet the following statutory requirements set forth in the statute:

> In submitting proposed energy efficiency and demand-response plans and funding levels to meet the savings goals adopted by this Act the utility shall:
>
> (1) Demonstrate that its proposed energy efficiency and demand-response measures will achieve the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e);
>
> (2) Present specific proposals to implement new building and appliance standards that have been placed into effect;
>
> (3) Present estimates of the total amount paid for electric service expressed on a per kilowatthour basis associated with the proposed portfolio of measures designed to meet

> the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e);
>
> (4) Coordinate with the Department and the Department of Healthcare and Family Services to present a portfolio of energy efficiency measures targeted to households at or below 150% of the poverty level at a level proportionate to those households' share of total annual utility revenues in Illinois;
>
> (5) Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs;
>
> (6) Include a proposed cost-recovery tariff mechanism to fund the proposed energy efficiency and demand-response measures and to ensure the recovery of the prudently and reasonably incurred costs of Commission-approved programs;
>
> (7) Provide for an annual independent evaluation of the performance of the cost-effectiveness of the utility's portfolio of measures and the Department's portfolio of measures, as well as a full review of the 3-year results of the broader net program impacts and, to the extent practical, for adjustment of the measures on a going-forward basis as a result of the evaluations. The resources dedicated to evaluation shall not exceed 3% of portfolio resources in any given year; and
>
> (g) No more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices.

(220 ILCS 5/12-103(f) and (g)).

e. Breakthrough Technologies

Section 12-103(g) of the statute provides that "[n]o more than 3% of energy efficiency and demand-response program revenue may be allocated for demonstration of breakthrough equipment and devices." (220 ILCS 5/12-103(g)).

f. Penalties

Section 12-103(i) sets forth penalties if utilities fail to meet the statute's energy efficiency savings goals. The immediate penalties are:

> If, after 2 years, (*sic*) an electric utility fails to meet the efficiency standard specified in subsection (b) of this Section . . . it shall make a contribution to the Low-Income Home Energy Assistance Program. . . . .a large electric utility shall pay $665,000.

(220 ILCS 12-103(i)).

III. Ameren's Plan

a. The Advisory Committee or Stakeholder Group

Ameren's analysis and initial program design was shared with Illinois stakeholders through a series of workshops beginning in August of 2007 and extending through October. These workshops provided a meaningful forum for feedback and education. (Am. Ex. 1.0 at 2-3). These initial steps are only the beginning of a long-term commitment to a collaborative process which will develop meaningful, cost effective, long-term, sustainable energy efficiency and demand response initiatives. Ameren is also advancing energy efficiency initiatives for natural gas customers in separate proceedings. (Am. Ex. 1.0 3).

b. Measure Selection

For use in analyzing the cost-effectiveness of energy efficiency measures, Ameren identified approximately 1,000 energy efficiency measures that touch all major customer classes, including residential, commercial, and industrial, including measures addressing all major end uses for electricity. (Ameren Exs. 2.0 at 2.1 at 20). A measure is a device, appliance or practice that, when implemented in a home business or manufacturing process, results in a reduction in the amount of energy used per unit of useful service, like a compact fluorescent light bulb. (Ameren Exs. 2.0 at 3; 4.0 at 5). A program is a combination of one or more energy efficiency or demand response measures with a set of incentives or other services and a process for recruiting customers to install or implement the energy efficiency or demand response measures. (Ameren Ex. 4.0 at 6). One example of a program is a commercial and industrial prescriptive incentive program, wherein a utility provides fixed incentives for a wide variety of standard commercial and industrial energy efficiency measures. (*Id.*).

ICF International compiled the energy efficiency measures from several sources, the principal of which was the Database for Energy Efficiency Resources (DEER) maintained by the California PUC. (*Id.*). This database contains several hundred unique measures that could be applied in residential, commercial and industrial buildings. For each measure, the database provides an estimate of the energy savings per unit, as well as the costs associated with installation of the measures. Utilities in California use this database as the primary source of measure information in the design

and evaluation of energy efficiency programs in that state. (*Id.*). Other sources of information for the measure list included the Consortium for Energy Efficiency, a not-for-profit organization funded by utilities and the federal government to develop various initiatives to promote energy efficiency measures; the American Council for an Energy Efficient Economy (ACEEE), a not for profit organization, and the U.S. EPA Energy Star Program. The final database prepared for this analysis included approximately 1,000 measures. (Ameren Ex. 4.0 at 6-7).

While the DEER database is constructed and maintained in California, its non-weather sensitive measures can have equal applicability to any jurisdiction. ICF used the DEER database as a source for basic weather-sensitive measure definitions, however, it developed independent estimates of measure savings based on weather conditions characteristic of Ameren's service territory. (Ameren Ex. 4.0 at 6-7).

c. TRC Analysis

Section 12-103(f)(5) of the statute requires that electric utilities shall implement cost-effective energy efficiency measures to meet certain incremental annual energy savings goals. Specifically, in their compliance filing, utilities must:

> Demonstrate that its overall portfolio of energy efficiency and demand-response measures, not including programs covered by item (4) of this subsection (f), are cost-effective using the total resource cost test and represent a diverse cross-section of opportunities for customers of all rate classes to participate in the programs.

(220 ILCS 5/12-103(f)(5)).

Mr. Jensen explained that the Illinois TRC test compares the benefits realized by installing a measure with the costs of installing it. (Ameren Ex. 4.0 at 9). Benefits are calculated as the product of the measure's estimated energy and peak demand savings and the utilities avoided cost. The costs are the incremental capital, installation and operating and maintenance (O&M) costs. The incremental cost is defined as the difference between the cost of the efficiency measure and the cost of the measure that otherwise would have been installed. (*Id.*).

ICF gathered additional data and performed further analyses related to these measures. (Ameren Ex. 4.0 at 10). First, the measures that we examined were divided into two major classes: those with energy and peak demand savings that are not affected by temperature and those for which savings are weather-dependent. The former class includes measures such as lighting, household appliances, motors, and many industrial processes. The latter class includes measures such as air conditioning and building shell improvements (insulation). For example, an air conditioner will run for more hours and consume more electricity over the course of a summer in Carbondale than it will in Chicago, because in Carbondale, summers are generally warmer than they are in Chicago. An air conditioning efficiency measure will, therefore, save more energy when it is applied in Carbondale as opposed to Chicago. (*Id.*).

The savings and cost data associated with non-weather-sensitive measures were taken in most cases from the DEER database. (Ameren Ex. 4.0 at 10). In several cases, DEER measure cost was supplanted with more recent local information. The costs for compact fluorescent light bulbs in the residential sector were based on data collected by the MEEA as part of its Change-a-Light campaign conducted in 2007. (*Id.*).

With regard to weather-sensitive measures, Ameren personnel developed independent estimates of measure savings using building energy simulation. (Ameren Ex. 4.0 at 11). ICF employed the DOE-2 model, the industry standard for simulating the hour-by-hour energy use of a building and its component systems. Separate estimates of measure savings for a wide range of measures were developed by simulating the operation of nine prototypical commercial building types and four prototypical residential homes. The home types were single family with gas heat and central air conditioning, single family with electric resistance heat and central air conditioning, single family with an electric air source heat pump, and multi-family with gas heat. These simulations were prepared using normal weather data characteristic of Central and Southern Illinois. Several heating, ventilation and air conditioning (HVAC) types were also modeled for the commercial building types. (*Id.*).

This analysis also required estimates of the useful life of each measure. (Ameren Ex. 4.0 at 11-12). Measure lifetime is needed because the TRC test analysis needs to account for all of the energy savings realized by implementation of a measure over time. Additionally, the cost-effectiveness analysis requires a discount rate that is used to estimate the present value of the efficiency measure's costs and benefits. (*Id.*).

Using the information described above, ICF calculated the value of the TRC test for each of the measures in the database. The product of estimated annual energy savings for each measure and the present value of the annual avoided costs were divided by the incremental cost of each measure. (Ameren Ex. 4.0 at 13). Measures with a ratio of benefits to costs of 1.0 or greater passed the TRC test. The formal expression of the Illinois TRC test, which differs from the standard formulation of the TRC test described above, is as follows:

TRC = Benefits/Costs

$$BTRC = \sum_{t=1}^{N} \frac{UAC_t}{(1+d)^{t-1}}$$

$$CTRC = \sum_{t=1}^{N} \frac{PRC_t + PCN_t + UIC_t}{(1+d)^{t-1}}$$

Where:

BTRC = Benefits of the program
CTRC = Costs of the program
UACt = Utility avoided supply costs in year t
UICt = Utility increased supply costs in year t
PRCt = Program Administrator (Utility) program costs in year t
PCN = Net Participant Costs

(Ameren Ex. 4.0 at 14). The TRC test often is applied to assess the cost effectiveness of individual energy efficiency measures as well as energy efficiency programs. (*Id.*).

ICF's calculation of cost-effectiveness incorporated both electricity savings and demand reductions. (Ameren Ex. 4.0 at 14). Mr. Jensen provided the results of the TRC measure screening, as presented in tables 2 and 3 below. (Ameren Ex. 4.0 at 16). Of the roughly 1,000 measures that were screened, approximately 580, or 64 percent passed with a benefit-cost ratio of 1.0 or greater. (*Id.*).

d. Calculation of Avoided Costs

The term "avoided costs," in the context of energy efficiency, refers to the cost avoided through a reduction in energy usage, *e.g.,* the societal benefit of energy efficiency. A utility measures costs avoided through energy efficiency measures using two components, the avoided capacity cost, which is achieved by avoiding capacity additions through energy efficiency or load management strategies, and avoided energy costs, which measures incremental energy savings. (Ameren Ex. 2.0 at 3).

Ameren determined the avoided energy cost component using a forward price curve for the near term based on observable market transactions. Longer-term market prices were forecasted using the MIDAS Gold market model, which is an electric generation economic dispatch model of the eastern interconnect region of the United States. (Ameren Ex. 2.0 at 5). The actual values of avoided energy costs provided by Ameren Illinois Utilities to ICF are included in Ameren Ex.. 2.3.

Emissions costs were also included in the estimation of avoided energy costs. (Ameren Ex. 2.0 at 5). For the observable market, the assumption was made that market clearing prices include all known avoided costs, including emission avoidance. For the modeled values that extend beyond the observable market, Ameren personnel ran the MIDAS model, which includes a SO2, NOx and mercury cost that is relevant to electric energy efficiency and consistent with long-term resource planning studies. (*Id.*).

The Illinois Power Act requires that:

> In calculating avoided costs of power and energy that an electric utility would otherwise have had to acquire, reasonable estimates shall be included in financial costs likely to be imposed by future regulations and legislation on emissions of greenhouse gases.

(20 ILCS 3855/1.10). Ameren used the high carbon dioxide ("CO2") case assumptions in the analysis of the cost-effectiveness of energy efficiency measures, in light of the likelihood that federal CO2 legislation will take effect beginning in 2012. A high CO2 case assumes a value of $15/short ton starting in 2012, increasing at 5% per year in real terms. (Ameren Ex. 2.0 at 6).

The value of CO2 emission avoidance is captured in the analysis of the cost effectiveness of energy efficiency measures in terms of a dollar per short ton metric. The dollar per short ton metric has to be converted to a $/MWH (megawatthour) metric. The conversion factor is based on the average Ameren generating unit CO2 emission rate of approximately 2,080 pounds per megawatthour. At this rate, the conversion factor for all intents and purposes is 1.0. Thus, $15 per short ton of CO2 is equivalent to $15 per megawatthour. Carbon legislation is forecasted in terms of a dollar per short ton CO2 tax in order to facilitate the calculation of avoided costs. (Ameren Ex. 2.0 at 6).

Even though Ameren's plan only covers the period from 2008 to 2010, the energy efficiency measures included in the plan have measure lives that continue well beyond 2010. (Ameren Ex. 2.0 at 6). Computation of the benefit to cost ratio for a program is the ratio of the net present value of the total benefits of the program to the net present value of the total costs as calculated over the lifetime of the measures. Therefore, to the extent that a measure's economic life extends beyond 2012, there is a greenhouse gas cost component captured in the benefit-to-cost ratio for that energy efficiency measure. (*Id.*).

e. The Bundling of Measures

Mr. Jensen explained that a program type is a general classification that references the types of measures that might be offered within a program targeted at a specific market. (Ameren Ex. 4.0 at 17). The bundling process is used because very few, if any, programs include only one single measure. Rather, program designers build programs around combinations of measures that might appeal to a given market and that can be delivered using similar channels. In subsequent steps, ICF estimates how many of each measure would or could be adopted by program participants and then sum the energy and demand reduction impacts of these measures. *(Id*.).

According to Mr. Jensen, energy efficiency program "best practice" design and implementation involves the application of a number of considerations, as well as experience, to each individual case. (Ameren Ex. 4.0 at 18). He testified that best practices for a utility that has been designing and managing programs for two decades may be different from best practices for an organization just entering the field.

Various organizations have, however, reviewed and compiled best practices in the area of energy efficiency. (*Id.*).

f. Portfolio Design

Ameren's personnel and ICF then developed a portfolio to meet the targeted load reductions without including placeholders for the DCEO energy efficiency portfolio. The essence of a portfolio is balance – a mix of investments corresponding with different objectives and different risk profiles that help ensure goals are met even if individual programs under-perform. The initial energy efficiency initial portfolio results, including the projected portfolio cost estimates, showed that it is likely that Ameren will approach the 0.5% average retail rate increase limits in each year of the 2008-2010 implementation plan. (Ameren Ex. 2.0 at 24).

g. The Portfolio of Energy Efficiency and Demand Response Programs

The programs included in Ameren's energy efficiency 2008-2010 implementation plan, are as follows:

Residential Lighting and Appliances

Ameren's Residential Lighting and Appliances program will acquire cost-effective energy efficiency through customer incentives, with the intention of increasing sales of Energy Star-qualified appliances and lighting products to residential customers, educating consumers through advertising and promotions to purchase Energy Star-qualified products, expanding the retail penetration of Energy Star-qualified products, and coordinating with and leveraging current EPA/Department of Energy ("DOE") efforts underway to promote qualified Energy Star appliances and lighting products. (Ameren Ex. 2.0 at 10).

The program is intended to encourage customers to purchase more energy-efficient Energy Star-rated appliances through the use of education and incentives. (Ameren Ex. 2.0 at 10). Through this program, Ameren will provide the tools to facilitate residential customers' ability to reduce energy usage, which will decrease net future energy costs. Ameren personnel anticipate that there will also be a need to recycle CFLs in an environmentally acceptable manner, and the need to seek bids to recycle CFLs as part of its comprehensive Energy Star -related initiatives. (*Id.*).

Home Energy Performance

Ameren will offer two residential programs to enhance a customer's existing infrastructure. The Home Energy Performance program will provide residential customers who heat their homes using electricity with a home diagnostic and improvement program that can evolve into a more comprehensive Energy Star Home Performance program focused on developing a local home-performance industry. Contractors hired by Ameren will provide an energy audit and arrange for installation of insulation measures when warranted by the audit. In addition, as warranted, the contractor will coordinate with the HVAC Diagnostics and Tune-Up program to deliver those program services. (Ameren Ex. 2.0 at 11).

The second program, the Residential HVAC Diagnostics and Tune-Up program, will utilize HVAC contractors who are trained to use one of several tools used to check refrigerant charge and airflow over the coils of an AC unit. Based on an analysis provided by a technician, the contractor provides recommendations regarding charge and airflow, which would then be implemented by a technician. (Ameren Ex. 2.0 at 12).

Residential Home Energy audits will provide customers with an option to receive expert information to complete comprehensive retrofit packages for energy efficiency improvement for existing single family homes. This program will provide customers with energy and demand savings through improvement of the operating performance of residential central AC units. (Ameren Ex. 2.0 at 12).

Refrigerator Recycling

Ameren's Refrigerator Recycling program will promote the retirement and recycling of working second refrigerators and/or freezers that were manufactured before 1993. (Ameren Ex. 2.0 at 12). Recycling/disposal practices will be designed to prevent the release of chlorofluorocarbons into the environment. This program is intended to retire and recycle secondary, inefficient refrigerators from households by offering a turn-in incentive and free pickup of working equipment, as well as information and education on the cost of keeping an inefficient unit in operation. (*Id.* at 13). It is designed to reduce the amount of electricity required to serve the end-use needs of the customers, thus, reducing delivery load. (*Id.*).

Residential Multifamily Program

Ameren's Residential Multifamily program will install measures in tenant spaces related to central AC unit diagnostics and tune-up. (Ameren Ex. 2.0 at 14). It also will provide incentives for replacing standard efficiency common area lighting and incandescent and fluorescent exit signs with LED exit signs. More expensive or complex measures (windows, replacement of roof-top air conditioning units) will be subject to an energy analysis to validate cost-effectiveness and incentive levels.

Commercial and Industrial ("C&I") Programs

Ameren will offer two Commercial and Industrial ("C&I") incentive-based programs that target upgrades to existing infrastructure through prescriptive and custom incentives, with the objective of encouraging C&I customers to purchase more energy-efficient technology. One of these programs, the C&I Prescriptive Incentive Program will provide incentives for energy-efficient products that are readily available in the marketplace. It will provide financial assistance to customers to support implementation of high-efficiency opportunities, which are available at the time of new equipment purchases, facility modernization, and industrial process improvement. (Ameren Ex. 2.0 at 14-15).

New Construction

Ameren's Commercial New Construction Program is intended to promote energy efficiency through a comprehensive effort to influence building design practices. (Ameren Ex. 2.0 at 15). The program will work with building owners/managers, design professionals, trade allies, and contractors to design and construct high-performance buildings with improved energy efficiency, strong environmental performance, as well as improved system performance and comfort. (*Id.*).

The goal of this program is to capture energy efficiency opportunities which are available during the design and construction of new buildings, major renovations and tenant build-outs in the non-residential market that are being built to meet Leadership in Energy And Environmental Design ("LEED") certification standards. (Ameren Ex. 2.0 at 16). The LEED Green Building Rating System, developed by the U.S. Green Building Council, provides a suite of standards for environmentally sustainable construction. (*Id.* at 17).

Retro-Commissioning

Ameren's Retro-Commissioning program is intended to help building owners and managers determine the energy performance of buildings, so they may identify major opportunities for improving performance through re-optimization of existing systems and replacement of under-performing equipment. It also will provide financial support for taking recommended actions, in some cases. The program will provide several related sets of services including initial qualification based on benchmarking or quick facility assessments, more detailed facility assessments intended to identify opportunities for systems improvements, development of a retro-commissioning plan, training, direct installation of low-cost measures and verification of plan implementation and incentive fulfillment. Through the use of C&I energy audits, customers will have the tools to improve the performance of energy-using equipment in their existing buildings by focusing on optimizing mechanical equipment and related controls. (Ameren Ex. 2.0 at 17).

Municipal Street Lighting

This program will target customers that have mercury vapor and/or incandescent street light fixtures that are owned by Ameren. (Ameren Ex. 2.0, p.18.) Ameren will use financial incentives to encourage adoption of energy efficient replacement bulbs. This plan will reduce the amount of electricity required to serve the end-use needs of customers, to reduce delivery load.

Demand Response Programs

Residential Air Conditioning ("AC") Unit Direct Control

Ameren's residential demand response program, its AC Unit Direct Load Control, is based on the fact that almost 100% of Ameren's residential customers have a central air conditioning system, which typically accounts for approximately half of a home's

summer peak demand. (Ameren Ex. 2.0 at 20). The Direct Load Control program, will provide for free equipment and installation of a switch mounted on the outside air conditioning compressor that uses a one-way paging strategy. During summer peak periods, its personnel will activate the switch, resulting in "cycling" of the central air conditioning unit, meaning that it will be turned off for a predetermined amount of time.

The residential Direct Load Control program is designed to acquire peak demand reduction through fully-automated Direct Load Control demand response systems for the residential sector. (Ameren Ex. 2.0 at 20). This plan will allow Ameren to "cycle" air conditioners, during periods of tight supply conditions through the use of automated switches. Participating customers will be paid an incentive in return for giving Ameren the option of "cycling" their air conditioner. (*Id.* at 21).

The Commercial Demand Credit Program

Pursuant to Ameren's Commercial Demand Credit program, Ameren will work with customers to determine equipment which may be switched off through automated dispatch from Ameren. (Ameren Ex. 2.0 at 21). During peak demand periods, Ameren, will notify a customer and activate a wireless signal that activates the switch, which in turn, relays the equipment on and off. Customers will be paid an incentive in return for giving Ameren various cycling options.

The program targets the acquisition of 2.5 MW of peak demand reduction through fully-automated Direct Load Control demand response systems for the small commercial sector who choose to remain on bundled service. This plan will reduce the amount of capacity required to serve the end-use needs of Ameren's customers. (Ameren Ex. 2.0 at 21). Through the use of this program, Ameren will be able to use a demand response option to manage the need to purchase expensive peak power during periods when the transmission system is constrained or market prices are high. These savings are then shared with participating customers through incentive payments, as well in the form of future lower costs to acquire power supply to serve the needs of customers during peak periods. (Ameren Ex. 2.0 at 22).

h. DCEO's Role

Subsection (e) of the statute requires that a utility and the Illinois Department of Commerce and Economic Opportunity ("DCEO") share the duties of implementing the energy efficiency measures. It provides that "[e]lectric utilities shall implement 75% of the energy efficiency measures approved by the Commission . . . . The remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by [DCEO], and must be designed in conjunction with the utility and the filing process." (220 ILCS 5/12-103(e)). The evidence established that Ameren and DCEO calculated the split by considering the nature of the programs and allocating the amount under the statutory spending screen to correspond with the statutory percentages. (DCEO Ex. 1.0 at 12-13).

Section 12-103(e) also requires that "[a] minimum of 10% of the entire portfolio of cost-effective energy efficiency measures shall be procured from units of local

government, municipal corporations, school districts, and community college districts," and that DCEO "coordinate the implementation of such measures." (220 ILCS 5/12-103(e)). The evidence established that Ameren and DCEO have agreed that DCEO would be responsible for presenting and implementing the portfolio of energy efficiency measures targeted at low-income households as is required by Section 12-103(f)(4). (*Id*. at 12-16).

ICF performed the TRC test on the combined portfolio of the utility plus DCEO portfolio of programs and the portfolio passes the test. However, low-income programs are not subject to this test. (220 ILCS 5/12-103(f)(5)).

After coordinating with the utilities, DCEO, ComEd and Ameren agreed that DCEO's efficiency programs will concern three major areas: the public sector, the low-income sector and "market transformation" (training, education and like programs). To that end, funding was divided based on the 75/25% split of program costs and the utilities and DCEO further agreed that the DCEO share of the annual kilowatt savings targets would be less than 25%, with the relevant utility making up the difference. DCEO's programs will account for approximately 20% (ranging from 18.6% to 21.5%) of the total kilowatt savings during the first three years of the plan. (DCEO Ex. 2.0 at 7). Both Ameren and DCEO intend to work together to achieve the load reductions specified in the new statute.

This kilowatt savings split allows DCEO to fund less cost effective (such as low-income) or difficult to measure, but necessary, programs. DCEO's contribution, plus the utility kilowatt savings projections, meet or exceed the statutory requirements as presented in Ameren's and DCEO's testimonies. The evidence established that DCEO's portion of the portfolio is designed to support the ongoing nature of the escalating reduction targets (2% reductions by 2015 and continuing thereafter) by incorporating incentive programs with longer term impacts and market transformation programs—each of which are designed to develop a robust energy efficiency services industry necessary to meet the future statutory requirements. (DCEO Ex. 1.1).

DCEO's portion of the portfolio includes approximately 65% of its program funding and measures for the "public sector" which includes units of local government, municipal corporations, school districts, and community college districts. The statute requires that 10% of the total portfolio (40% of DCEO's portion) must be procured from these specific groups. DCEO has included approximately 25% more funding than required in this area in order to more fully serve these public groups and additionally offer these programs to universities and state facilities. DCEO averred that it will thus meet or exceed the Section 12-103(e) requirement. Universities and other state facilities make their purchasing decisions in a similar fashion to municipals, schools and community colleges and to avoid potential confusion if these groups were barred from DCEO's incentive programs targeted at municipals, schools and public community colleges. (DECO Ex. 1.0 at 17-19).

i. Coordination with State Agencies

To conform with 220 ILCS 5/12-103(f)(4), DCEO and the utilities worked together closely on the development of the total portfolio and on the development of a suite of low-income programs pursuant to Section 12-130(f)(4). Once the decision was made that DCEO would manage the low-income programs, DCEO met and consulted with Illinois Department of Healthcare and Family Services, ("DHFS") along with other low-income serving organizations such as the Illinois Housing Development Authority, the Center for Neighborhood Technology, as well as the utilities, regarding the design of the low-income programs. (DCEO Ex. 2.0 at 16). Based on information provided by DHFS and the utilities, DCEO estimates that the low income households' share is 5.94% and proposes using 6% as the basis for its funding of low-income programs for the first three year planning period. (DCEO Ex. 1.0 at 28-31).

Ameren personnel have coordinated with state agencies to develop their respective plans in accordance with statutory requirements. (DCEO Ex. 1.0 at 6, 12, 20). In coordinating with the Department of Commerce and Economic Opportunities ("DCEO"), Section 12-103 (e) provides that "[e]lectric utilities shall implement 75% of the energy efficiency measures approved by the Commission, . . . [and t]he remaining 25% of those energy efficiency measures approved by the Commission shall be implemented by the Department of Commerce and Economic Opportunity, and must be designed in conjunction with the utility and the filing process." 220 ILCS 5/12-103(e).

j. Recovery of Incremental Costs and the Cost Recovery Method

Ameren's witness Mr. Jones testified that the cost limit for energy-efficiency and demand-response measures has been determined to be $13.8 million, $29 million, and $44.8 million for successive plan years one, two, and three, respectively. Year one consists of the period June 1, 2008 through May 31, 2009. Ameren's Plan, along with DCEO, anticipates spending up to the projected cost limit. Accordingly, the charge is expected to be 0.0360 ¢/kWh (cents per kilowatt hour) for the year beginning June 1, 2008. (Ameren Ex. 3.0 at 2-3).

The "cost limit" regarding implementation of energy efficiency and demand-response measures is defined by Section 12-103(d) of the statute, which calls for a series of checks to ensure spending on measures does not exceed specified cost per kWh limits. (220 ILCS 5/12-103(d)). The specified cost per kWh limit multiplied by the expected kWh sales for the plan period produces the cost limit. (*Id*.).

The measures implemented for energy-efficiency kWh reductions applicable to all delivered energy, regardless of the customer's choice of supplier for power and energy service. (Ameren Ex. 3.0 at 3). However, demand-response measures are applicable only to the load of the customers served through fixed-price "virtual" bundled service tariffs for customer groups whose service has not been declared competitive (*e.g.,* customers with demands under 400 kW). There is no separate cost limit for energy-efficiency and demand-response measures. Both requirements fall under a single cost limit calculation. (*Id.*).

Mr. Jones testified that the cost limit for all of the Ameren Illinois companies was calculated as if it were for a single electric utility. This was done because Section 12-103(i) states Illinois electric utilities that are affiliated by virtue of a common parent company are considered a single electric utility, as the Ameren Illinois Utilities are affiliated by virtue of a common parent company, Ameren Corporation. (Ameren Ex. 3.0 at 3).

Determining the average ¢/kWh (cents per kilowatt hour) paid by customers requires estimating power and energy costs for customers served by a Retail Electric Supplier (a "RES"). (Ameren Ex. 3.0 at 5). Mr. Jones testified that the approach used to estimate the amount paid for RES-served customers relies upon MISO Locational Marginal Prices ("LMP") data for the first period, and a combination of MISO LMP and Platts Energy Trader information for future periods. (*Id.* at 6).

Ameren estimated that average cents/kWh paid to be 7.192 ¢/kWh, 7.892 ¢/kWh, and 8.126 ¢/kWh for the years ending May 2007, May 2008, and May 2009, respectively. (Ameren Ex. 3.0 at 9). Ameren Ex. 3.1 demonstrates the calculation of the cost limit based on the Companies' sales forecast and average cents per kWh applicable to each of the three planning years. The limit for the first year is 0.5% of the year ending May 2007 value of 7.192 ¢/kWh, or 0.036 ¢/kWh. Multiplying 38,385,690 MWh (expected delivered sales for the plan period June 1, 2008 – May 31, 2009) by the first year limit per kWh of 0.036 ¢/kWh yields $13.8 million. (*Id.*).

In the second year, the cost limit is the greater of 1.0% of the year ending May 2007 value (0.0719 ¢/kWh) which produces a limit of $27.8 million, or an additional 0.5% of the year ending May 2008 cents/kWh value of 7.892 ¢/kWh (0.0395 ¢/kWh). (Ameren Ex. 3.0 at 9). The 2008 amount adds $15.2 million, which when added to $13.8 million produces $29 million. Thus, the total limit for the second year is $29 million. (*Id.*).

In the third year, the cost limit is the greater of 1.5% of the year ending May 2007 value which produces a limit of $41.9 million, or an additional 0.5% of the year ending May 2009 cents/kWh value of 8.126 ¢/kWh (0.0406 ¢/kWh). (Ameren Ex. 3.0 at 9). The 2009 amount adds $15.8 million, which when added to $29 million produces $44.8 million. Thus, the total limit for the third year is $44.8 million. (*Id.*). Ameren does not plan to update the cost limits for the second and third years of the plan to reflect updates to various cost elements, such as delivery service revenue, transmission revenue, and market cost information. (*Id.* at 10).

k. Estimates of the Total Amount Paid for Electric Service Associated with the Plan

220 ILCS 5/ 12-103(f)(3) requires Ameren to "present estimates of the total amount paid for electric service expressed on a per kilowatthour basis associated with the proposed portfolio of measures designed to meet the requirements that are identified in subsections (b) and (c) of this Section, as modified by subsections (d) and (e),"

Ameren estimated that average cents/kWh paid to be 7.192 ¢/kWh, 7.892 ¢/kWh, and 8.126 ¢/kWh for the years ending May 2007, May 2008, and May 2009, respectively. (Ameren Ex. 3.0 at 9). Ameren Ex. 3.1 demonstrates the calculation of the cost limit based on the Companies' sales forecast and average cents per kWh applicable to each of the three planning years. The limit for the first year is 0.5% of the year ending May 2007 value of 7.192 ¢/kWh, or 0.036 ¢/kWh. Multiplying 38,385,690 MWh (expected delivered sales for the plan period June 1, 2008 – May 31, 2009) by the first year limit per kWh of 0.036 ¢/kWh yields $13.8 million. (*Id.*).

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III. The Contested Issues

a. Miscellaneous Procedural Issues

1. Future DCEO Submissions

Staff argues, essentially, that much confusion was created, unnecessarily, when DCEO filed its own petition, rather than making joint filings with the two utilities. (Staff brief at 8-12). Staff acknowledges that this situation was likely an inadvertent oversight resulting from the newness and complexity of Section 12-103 and DCEO's completely new obligations under that statute. It recommends that the Commission specifically direct DCEO to make joint filings, in the future, with the utilities, in connection with future energy efficiency and demand response plans.

Analysis and Conclusions

Staff's recommendation is reasonable and it should be adopted. We do note, however, that the new statute created almost impossible time-frames, resulting in little time for in-depth analysis of the finer points of civil procedure. However, DCEO has statutory obligations pursuant to the new statute, which logically, makes it a joint petitioner. DCEO is directed, in the future, to make joint filings with the corresponding utilities, as long as DCEO's flexibility to administer, and offer a consistent set of efficiency programs statewide, shall not be compromised by this approach.

2. Future Commission Review of Ameren's Plan to Determine Whether it is Meeting Energy Savings Goals

This Commission is required by statute to review Ameren's Plan for purposes of meeting the statutory goals (as opposed to a prudence review) during the second and third year of Ameren's plan. (220 ILCS 5/12-103(i)and (j)). The dates are as follows for commencement of a Commission docket reviewing Ameren's plan to determine whether it meets the statutory energy efficiency goals: September 1, 2010, for the second year and September 1, 2011, for the third year. The Commission believes that initiating proceedings on these dates is appropriate to ensure compliance with the Act. On or before those dates, Staff is directed to provide the Commission with draft orders that initiate review pursuant to this portion of the statute.

b. Plan Implementation Issues

1. Increasing the Statutorily Imposed Energy Efficiency and Demand Response Goals

The statute requires the utilities and DCEO to meet certain energy efficiency and demand response goals. (220 ILCS 5/12-103(b) and (c)). The Consumer Powerline urges this Commission to significantly increase the energy efficiency and demand response goals imposed on the utilities by law. It maintains that much more could be achieved. It points out that the state of New York recently announced a goal of 15 percent efficiency by 2015. Also, Connecticut has 10% of its peak load participating in demand response. (CPLN brief at 15-16).

Analysis and Conclusions

We agree with the Consumer Powerline that much needs to be done in Illinois in order to reduce energy consumption. However, we decline to increase that which was imposed by statute. We note that this is the first time that utilities and DCEO are mandated, by state law, to have energy efficiency and demand response plans. While other states' goals are impressively aggressive, there is no showing that these states just started requiring electric utilities to have energy efficiency and demand response programs, which is the case here.

2. Application of the Total Resource Cost Test at the Portfolio Level

The statute requires that the utilities and DCEO's energy efficiency and demand response measures must satisfy the total resource costs test which is defined in the Illinois Power Act at 20 ILCS 3855/1-10. (220 ILCS 5/12-103(a)). DCEO contends that the Commission should require calculation of this test at the portfolio level, as opposed to the level of individual measures. Thus, program elements can be added to a portfolio, as long as the overall portfolio has a TRC that is greater than one. (*See, e.g.,* DCEO Ex. 1.0 at 7). DCEO asserts that, even though it endeavored to make all of its programs pass the TRC test, this does not mean that DCEO is of the opinion that individual programs or measures must pass this test.

No party contested this contention.

Analysis and Conclusions

Calculation of the total resource cost test at the portfolio level provides utilities with greater flexibility to ensure that measures with less short-term energy savings value, but greater value over several years, will be included in any overall portfolio of measures and programs. This contention is reasonable and it is hereby approved. However, the utilities and DCEO are not precluded from applying the TRC test at the "measure" or program level, if they so choose.

3. Annualizing Savings

"Annualization," in effect, looks to the total annual savings of a measure. It does not take into account when that measure was purchased or installed. This means, in effect, that if an Ameren program subsidizes the purchase of an energy-efficient CFL light bulb, Ameren would receive credit for the total annual energy savings that this light bulb would provide, irrespective of whether this purchase or installation occurred in January or December of any given year. It is Ameren's contention that the terms of the statute itself necessitates an annualization of energy savings, and the practice does not require testimonial support. It cites Section 5/12-103(b), which provides that: "[e]lectric utilities shall implement cost-effective energy efficiency measures to meet the following incremental *annual* savings goals," and provides a timeline and schedule that turns upon a June 1st date each year. (Ameren brief at 89-90).

Analysis and Conclusions

"Annualization" is a reasonable approach and it is hereby adopted.

4. Updating the Spending Limits

Ameren calculated the spending amounts prescribed by Section 12-103(d)(1) through (3) in dollars per plan year. It does not intend to revise these spending amounts. (Ameren Ex. 3.0 at 9-10). Thus, after the Commission approves this plan, Ameren will not adjust its spending screens each year.

Staff witness Mr. Zuraski testified, however, that there are legitimate reasons for updating the spending limits at various points during the life of the three-year plan, as the spending limits are based on projections of future usage and future costs, which are both subject to uncertainty. Future power supply costs and/or normalized usage could drop significantly. Either one of these facts would be, in his opinion, an excellent reason to reduce the rate of spending on energy efficiency. Conversely, future power supply costs and/or normalized usage could increase significantly. These factors, also, would be excellent reasons to increase the rate of spending on energy efficiency and demand response programs. (Staff Ex. 1.0 at 1; Staff brief at 26-27).

Staff also contends that updating the spending limits on an annual basis is required by the statute. Staff cites Section 12-103(d) of the statute, which provides that an electric utility shall reduce the measures implemented in "any single year" by an amount necessary to limit the estimated average increase in the amounts paid per kilowatt hour by customers during certain specified time frames. Staff avers that the statute unmistakably refers to amounts paid in particular years for purposes of calculating the spending screens. Staff concludes that thus, the obligation to reduce the implementation of measures applies to "any single year." (Staff brief at 27; 220 ILCS 5/12-103(d)).

Analysis and Conclusions

The Commission agrees with Staff. The statute's plain language is that:

> [A]n electric utility shall reduce the amount of energy efficiency and demand-response measures implemented in any single year by an amount necessary to limit the estimated average increase in the amounts paid by retail customers in connection with electric service due to the cost of those measures to:
>
> (1) in 2008, no more than 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;
>
> (2) in 2009, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007, or 1% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;
>
> (3) in 2010, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2009, or 1.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007;
>
> (4) In 2011, the greater of an additional 0.5% of the amount paid per kilowatthour by those customers during the year ending May 31, 2010 or 2% of the amount paid per kilowatthour by those customers during the year ending May 31, 2007; and
>
> (5) thereafter, the amount of energy efficiency and demand-response measures implemented for any single year shall be reduced by an amount necessary to limit the estimated average net increase due to the cost of these measures included in the amounts paid by eligible retail customers in connection with electric service to no more than the greater of 2.015% of the amount paid per kilowatthour by those customers during the year

> ending May 31, 2007, or the incremental amount per kilowatthour paid for these measures in 2011.

(220 ILCS 5/12-103(d)(1)-(5)). Irrespective of the fact that a utility's' plan may be a comprehensive, three-year plan, as Staff points out, the spending limits are based on projections, which, necessarily, need to be reexamined, as they can change from year to year, based on previous years' figures. The previous year's figures, upon which, those calculations must be made, cannot be known years before the dates enunciated in the statute have occurred. Ameren is directed to re-calculate its projections on an annual basis.

5. The Collaborative Process

Although a proposed collaborative process is not statutorily required, Ameren recognizes that use of a collaborative process is a practical necessity in implementing a successful plan, under the statutory constraints. (Ameren Exs. 6.0 at. 4-5; 2.0 at 30). Ameren witness Mr. Ogden testified that Ameren understands that it is a practical necessity to involve stakeholders at some level in the decision making process, in order to ultimately meet its statutory obligation and will invite all stakeholders to discuss the issues identified by Mr. Voytas in testimony, and any others that may arise. (Ameren Ex. 6.0 at 5).

No party has specifically contested the propriety of Ameren's decision to use a collaborative process in the continued development and strengthening of their portfolio. However, Staff has questioned whether the Commission should specifically approve this aspect of the Plan. (Staff Ex. 1.0 at 40).

Mr. Ogden stated that Ameren is in agreement with Staff that the Commission need not approve or order it to engage in a collaborative process. (Ameren Ex. 6.0 at 4). However, Ameren is concerned about and is not clear regarding what Staff intends by playing the role of observer in the collaborative process. (*See* Staff Ex. 1.0 at 41). Ameren's concern is that the utilities and other parties would work hard to reach consensus on any number of issues, only at a later point in time to find Staff has a completely different view or opinion. (Ameren Ex. 6.0 at 4).

Staff witness Mr. Zuraski testified that Ameren should be responsible for implementing the plan approved by the Commission, including, but not limited to, providing for an independent evaluation, and that the stakeholder advisory aspect of the plan should be left to the Utility's discretion. (Staff Ex. 1.0 at 40-41). If, however, the Commission were to order Ameren to include a stakeholder collaborative group as part of its implementation of the plan, the organizations eligible to be a part of the stakeholder group aside from the DCEO, the ICC Staff, and the Attorney General, should be identified. (*Id*.). Also, the degree to which the participants in this group will be "decision makers" or merely advisors to the Utility must be established. Lastly, Mr. Zuraski stated if the participants were "decision makers," the number of votes each stakeholder would be able to cast must be determined. (*Id*.).

NRDC witness Mr. Henderson recommended that the Commission authorize a Demand-Side Stakeholder Advisory Process to include all three portfolio administrators. (NRDC Ex. 1.0 at 5). Stakeholders should be given notice and opportunity to comment on key issues that could impact portfolio costs or savings. (*Id.* at 5-6). Mr. Henderson recommended that the Commission identify and define a few broad cost categories for energy efficiency programs, and once those categories are defined, Mr. Henderson urges the Commission to monitor administrative costs to ensure the program dollars are spent to maximize benefits from the demand-side portfolio and are not used to cross-subsidize other activities. (*Id.* at 11-12). Mr. Henderson also supports administrator flexibility to respond to market conditions, but recommends that the Commission provide program administrators with clear guidelines about what program and portfolio changes are appropriate without seeking Commission approval, and what changes require either notice or comment to the Stakeholder Advisory Process or the Commission. (*Id.* at 8-9).

ELPC witness Mr. Crandall also suggested a stakeholder advisory group and procedure similar to the one proposed by the NRDC. (ELPC Ex. 1.0 at 4).

AG witness Mr. Mosenthal agreed that a stakeholder advisory group is an appropriate mechanism to work out details of the plan, but stated that the details of the stakeholder group's structure, parties, and roles need to be defined. (AG Ex. 1.0 at 7). He explained that the Illinois stakeholder group should meet frequently to review and discuss program design details as well as regular process or status reports, implementation issues and approaches, and performance results. He also argued that it would be important for the group to be independent and facilitated by a neutral party. (*Id*. at 8). Finally, Mr. Mosenthal indicated that the stakeholder advisory group's decisions should be binding on the participants, stating that if consensus could not be reached, stakeholders should be free to seek resolution of their disagreements at the Commission or in another forum. (*Id.*).

Analysis and Conclusions

All parties involved, with the possible exception of Staff, maintain that a Stakeholder Advisory Committee is essential to the success of the Plan. This Commission agrees with Ameren that it should establish a stakeholder process to review the Utility's progress towards achieving the required energy efficiency and demand response goals and to continue strengthening the portfolio. The Stakeholder group's responsibilities include but are not limited to: reviewing final program designs; establishing agreed-upon performance metrics for measuring portfolio and program performance; reviewing Plan progress against metrics and against statutory goals; reviewing program additions or discontinuations; reviewing new proposed programs for the next program cycle; and reviewing program budget shifts between programs where the change is more than 20%.

The committee should include representatives from Ameren, DCEO, Staff, the Attorney General, and CUB and representation from a variety of interests including

residential consumers, business consumers, environmental and energy advocacy organizations, trades and local government. The HVAC trade was not mentioned by any of the testifying witnesses, but is also an interested party and should be included in the collaborative to deal with programs regarding air conditioning which might include the recycling of old window air conditioning units, tune ups of central air systems, and ensuring that proper air conditioning units are installed. Also, a representative from the ARES (alternative retail electric supplier) community should be included.

This Commission does not believe that a statewide committee for both Utilities would be prudent. The differences in the service territories, such as labor costs, housing structure, population density and topography, may prove to make such coordination ill advised. The Utilities should coordinate their efforts as much as possible, but this Commission will not require it.

The Commission agrees with NRDC witness Mr. Henderson that Ameren should not be able to hire and fire the evaluation and measurement contractor. Mr. Henderson suggests that such an act would require approval from the advisory committee. However, we agree with Staff that pursuant to statute, the Commission is required to hire the independent evaluator.

How often the advisory committee meets and other procedural vehicles such as notice and comment for committee reviews of key issues should be determined by Ameren and members of the committee. The advisory committee **shall** report to the Commission. The report may be prepared by the Stakeholder Group facilitator, and may include observations from participants on how well the process worked, how it might be improved, and a list of recommendations from Stakeholder Group members on program and portfolio performance, with a response from the Utility to the recommendations.

The Stakeholder Group should coordinate its efforts with the Staff-led Workshops required by this Order.

6. Flexibility

Both DCEO and Ameren seek Commission approval of their request to be allowed to revise any and all aspects of their programs. (*See, e.g.,* DCEO brief at 14). Ameren Witness Mr. Ogden testified that Ameren is not requesting Commission approval of the details of the collaborative process itself inasmuch as this would be inconsistent with the fact that the success of the Plan is Ameren's responsibility under the Act. (Ameren Ex. 1.0 at 4). Mr. Ogden argues that a Commission-approved collaborative process may result in a loss of management flexibility which could lead to loss of control and direction over the Plan, thus placing Ameren at a disadvantage in meeting its statutory goals. (Ameren Ex. 1.0 at 5). However, Ameren welcomes the input of interested parties; its personnel have every intention of implementing ideas that will help meet the statutory goals. (Ameren Ex. 1.0, p. 6.)

Staff witness Mr. Zuraski explained that he "appreciate[d] how granting the requested flexibility would aid the Company in cost-effectively achieving the level of energy savings that it projects to be able to save." (Staff Ex. 1.0, at 9). He cautioned, however, that if the Company later modified or discontinued certain program elements, this could reduce the opportunities available to some rate classes. He noted that if the Commission were especially concerned about the plan portfolio including a "diverse cross-section of opportunities for customers of all rate classes," the Commission might not feel comfortable delegating this authority to the utility. (*Id.*).

AG witness Mr. Mosenthal recommended that the Commission allow the program administrators to retain flexibility regarding implementation and design details. (AG Ex. 1.0 at 8). In his opinion, the Commission's role should be to verify and ensure that the goals of the legislation are met, and that, with agreement of the stakeholder advisory group, the program administrators should have the ability to modify programs over time based on market conditions and feedback on the effectiveness of their implementation efforts. (*Id.*).

ELPC witness Mr. Crandall agreed that portfolio managers should have the flexibility to reallocate funds among programs as needed. (ELPC Ex. 1.0 at 5). He asserted, however, that "it is important that the relative share of funds assigned to specific sectors . . . remain approximately proportionate to the proposed levels in the plan." (*Id.*).

NRDC witness Mr. Henderson also "support[s] administrator flexibility to respond to market conditions within certain guidelines." (NRDC Ex. 1.0 at 8). He contends, however, that such flexibility should not be unlimited. (*Id.*). He therefore stated that the Commission "should provide administrators clear guidelines about what program and portfolio charges are appropriate without seeking ICC approval, and what changes require either notice or comment to the Advisory Stakeholder Process or the Commission." (*Id.* at 8-9).

Analysis and Conclusions

Regarding the measure of flexibility that portfolio managers should have, this Commission agrees with Ameren witness Mr. Ogden and ELPC witness Mr. Crandall that portfolio managers should have the flexibility to reallocate funds among programs. All testifying witnesses agreed that administrator flexibility is necessary to properly manage the portfolio. The only issue is whether Ameren or DCEO will have unlimited flexibility. The Commission agrees with Mr. Crandall's suggestion that the relative share of funds assigned to specific sectors should remain approximately proportionate to the proposed levels in the plan. However, the proposed changes would not require collaborative agreement prior to modification or discontinuation. Because the Utility and DCEO bear the burden under the statute, it is not feasible to grant the collaborative advisory committee veto power.

New Building and Appliance Standards

The statute requires utilities to have energy efficiency programs that "implement new building and appliance standards that have been placed into effect." (220 ILCS 5/12-103(f)(2)). The plain meaning of this language is that the programs must implement standards regarding new buildings, (as opposed to the standards for buildings that are not new). Building codes, and like building standards, have different requisites for new construction than for older, pre-existing buildings. (*See, e.g., Leavitt v. Farwell Tower Partnership,* 252 Ill App. 3d 260, 266, 625 N.E.2d 48 (1st Dist. 1993)).

We also note that, while apparently, Illinois has no appliance standards, federal appliance standards exist; they are the federal Energy Star appliance standards. (*See, e.g.,* 10 C.F.R. 430). We conclude that the phrase "appliance standards that have been placed into effect" refers to the federal Energy Star standards and any other laws that may be enacted in the future (after enactment). We further conclude that Ameren and DCEO are required by the statute to have programs that implement both new building standards, and, any existing appliance standards.

DCEO has presented ample evidence establishing that it has programs that implement these standards. We further note that Ameren's Residential lighting and Appliance program, which, in part, will provide customer incentives for Energy-Star-qualified appliances; its Home Energy Performance program, which provides residential customers, who heat their homes using electricity, with energy diagnostics regarding heating and air conditioning; and its Commercial and Industrial Custom Incentive program, which will provide customer incentives for commercial equipment purchases and facility modernization, to name a few, implement both new building standards and existing appliance standards. (*See,* Ameren Ex. 2.0 at 10, 12, 15). We conclude, therefore, that both DCEO and Ameren meet this statutory requirement.

7. Single-Charge Cost Recovery from all Customers

Originally, Ameren intended to propose a single charge upon all Illinois consumers, irrespective of rate class. (*See, e.g.,* Ameren brief at 82-83).

The IIEC contends, however, that distribution of this charge in such a manner violates Section 9-241 of the Public Utilities Act, which provides that when imposing rates and charges, utilities cannot grant a preference or advantage or maintain any unreasonable differences amongst customer classes. (220 ILCS 5/9-241). The IIEC proposed that Ameren should be required to impose three separate cost-recovery mechanisms for the different customer classes, in proportion to the amount of energy efficiency and demand response funds being used by that class. These classes are, according to the IIEC, residential, small commercial and industrial, and large commercial and industrial. (IIEC Ex. 1.0 at 2).

Also, if the Commission were to implement the IIEC's proposal, Ameren would need to retain the ability to modify programs, and possibly the cost recovery factors discussed by Mr. Stephens. (IIEC Exhibit 1.0 at 14). Pursuant to the IIEC's proposal,

cost recovery would not be "fixed" throughout the course of the plan. Rather, to the extent that Ameren shifts it's program focus over time, the charges could be modified in accordance with Ameren's updated costs. The IIEC avers that Ameren's programs and measures appropriately recognize differences in electricity usage amongst its customers. To more properly allocate the costs amongst the three broad ranges of classes, the IIEC proposes a cost-recovery mechanism that reflects these differences. Its witnesses were able to determine energy consumption levels for each of the three "classes" it has identified, (*Id.* at 5-8) the class-specific costs of the plan's distinctive programs for the classes, and an allocated share of overall program administrative costs. It further asserts that a uniform per kilowatt charge could lead to cross-subsidization. (*Id.* at 16).

Ameren has no objection to the IIEC's proposal. According to Ameren, it will not incur unnecessary costs or labor when reconfiguring the charges in the manner that the IIEC seeks. (Ameren Ex. 8.0 at 8).

Constellation New Energy avers that the customers of alternative electric suppliers could pay for demand response or energy efficiency twice, once when they procure something on their own, or, when they participate in a demand response program offered by an alternative supplier, and once again pursuant to the charge imposed by the utility. This, it avers, is unfair. (CNE brief at 3-4).

In the opinion of Staff witness Mr. Lazare, however, all persons and entities receive the same benefits from decreased energy consumption, which are, less need to build new electric generation facilities, less use of expensive "peak" electricity, and cleaner air for all. Although Staff did not have an opportunity to respond through testimony to the IIEC's testimony, it recommends imposition of a single charge. (Staff brief at 37).

Analysis and Conclusions

While we acknowledge that all consumers will benefit equally from the statute, as it attempts to confer cleaner air, less peak demand, and less of a need for new generation and other costs in an equal manner, Ameren's testimony that it will not incur many unnecessary costs or labor when reconfiguring the charges in the manner that the IIEC seeks is compelling. We therefore adopt the IIEC's proposal. The IIEC's approach is more in conformance with Section 9-241 of the Public Utilities Act. We further note that the IIEC's approach only re-distributes the funds collected pursuant to the charge imposed by statute; it does not reduce the amount of funds a utility will be able to use or constrain how it deploys those funds. The costs of the low-income programs, however, are to be equally shared by all customer classes. Ameren is directed to file its compliance tariffs within 30 days from the date of this Order.

Constellation New Energy's proposal appears to be, essentially, that a utility should be required to determine what customers of alternative electric suppliers are participating in demand response or energy efficiency programs offered by an alternative electric supplier, and then exclude these persons or entities from the charge

imposed for energy efficiency and demand response, or, offer those persons or entities a discount. However, there is no evidence indicating what such a process would entail, or, if it is even feasible. We therefore decline to follow this recommendation.

8. "Banking" Energy Savings

Although, in its pleadings, Ameren did not seek a Commission determination as to whether it should be allowed to "bank" any excess energy savings, it seeks a determination, now, for the first time in its brief, asking the Commission to find that it should be allowed to "bank" any excess energy savings and apply that excess in a subsequent year. Ameren presented scant evidence on this issue at trial. (*See,* Ameren brief at 88). ComEd sought Commission approval of its plan to "bank" energy savings, as well as cost overruns in its energy efficiency and demand response docket, docket 07-0540. Thus, now, Ameren also requests the authority to "bank" energy savings. (*Id.*).

Analysis and Conclusions

On Exceptions, both DCEO and Ameren point out that statewide consistency with regard to "banking" is imperative. (*See, e.g.,* DCEO Ex. 2.0 at 13-14; DCEO Brief on Exceptions at 7; Ameren Brief on Exceptions at 12-13). DCEO points out that allowing one utility (ComEd) to "bank" excess savings, but not another, will place DCEO in the undesirable position, unnecessarily, of being governed by different procedural standards, depending upon whether its measures are being implemented in a particular utility's territory. (DCEO brief on Exceptions at 7). We agree with DCEO that such an unintended consequence of Ameren's lack of specificity on this issue is unnecessary.

Therefore, Ameren's and DCEO's request for Commission approval of "banked" energy savings is granted, but, they may "bank" no more than 10 percent of the energy savings required by statute in the year, in which, it is "banked." Also, they may "bank" cost overruns.

IV. Evaluation, Measurement and Verification Issues

a. Use of Deemed Values

1. "Deemed" Energy Savings Values

Ameren and DCEO seek Commission approval of their request to "deem" the annual kilowatt savings of certain measures. These kilowatt savings were taken from California's DEER program. These savings all concern light bulbs. (Ameren Ex. 4.0 at 34). "Deeming" is a way to stipulate to the value of energy efficiency savings with well-known and documented values for evaluation and program implementation purposes. These "deemed" values would be used for planning purposes and would also be used by the independent evaluator, unless that evaluator determined that they were inaccurate. Then, the changed value would be used prospectively from the time, at which, the evaluator determined that a new value should be used.

Ameren's witness Mr. Jensen testified that Section 12-103(f) limits the budget that can be allocated to evaluation of the programs to three percent of the total amount of ratepayer funds used for energy efficiency. Because this budget is so low, an evaluator will not be able to conduct the level of analysis required to independently determine the savings values for the over 1,000 measures included in the programs, and, also, calculate the Net to Gross ratios for all programs. He averred that if these values are not "deemed," the evaluator will make an independent determination as to the savings values of these items. In so doing, that evaluator will be replicating well-established and widely relied upon savings research. According to Mr. Jensen, "deeming" is a common approach in the evaluation community. (Ameren Ex. 4.0 at 36-37).

DCEO ask this Commission to "deem" these annual kilowatt savings figures, temporarily, meaning that this Commission acknowledges that there is sufficient information regarding the energy savings values of these items and determines that the "deemed" values can be accepted as the basis for both planning purposes and evaluation during the three-year planning period. The final value would be determined at the end of the plan's three-year period and applied prospectively. (DCEO brief at 19).

Staff opposes the "deeming" of any values. In Staff's view, "deeming" is totally unnecessary. Staff witness Mr. Zuraski attempted to review and validate Ameren's energy savings projections. He concluded that in a future proceeding:

> [T]here may be even more . . . data and studies available. In addition, there will have been significantly more time for Staff and intervenors . . . to have reviewed this wealth of data and studies and to have determined if some of it is *less* than useful or *less* than sound. Staff may even hire additional personnel or consultants, specializing in energy efficiency

> program evaluation, to cobble together Staff's version of the most reasonable and accurate energy efficiency databases.

He opined that the Commission should not "deem" any values, as Staff has not had adequate time to review them. (Staff Ex. 1.0 at 38). Staff contends that the Commission will not need these values until it makes its determination of energy savings pursuant to Section 12-103(i) and (j). (Staff brief at 51-2).

The NRDC opposes "deeming" energy savings values. It points out that new federal legislation imposing heightened standards on incandescent bulbs may, in the future, change any value that is imposed now. (NRDC brief at 8). The ELPC, as well, opposes the deeming of energy savings values. (ELPC brief at 10).

Analysis and Conclusions

As Staff points out, there seems to be no reason, at this time, to independently determine the energy savings values of certain types of light bulbs based on the values determined in California. However, "deeming" values now adds a level of certainty to, and definition in, the operation of a plan. We additionally note that light bulbs are not weather-sensitive. Therefore, DCEO's recommendation that these values should be deemed, temporarily, with the final value to be determined at the end of the plan's three-year period and applied prospectively, is a reasonable one. During the next three-year period, actual values must be developed for use in future years. Also, these values must be revisited every three years, or, more frequently, as, new technology may emerge that would change these values or render the use of certain technology obsolete.

2. "Deemed" Net to Gross Ratios

The net effect of "free-ridership" and "spillover" is called a Net to Gross ("NTG") ratio. (Ameren Ex. 4.0 at 26). "Free riders" are program participants that would have undertaken the desired action in the absence of a program. (*Id.* at 25). "Spillover" customers are those who undertake an action that the program attempts to motivate, but who do not actually take any incentive from the program. (*See, e.g., id.* at 26). Unlike the situation with deeming values, however, the NTG ratio establishes a value reflecting a *program's* net impact, as opposed to the value of a measure, such as a light bulb. (*Id.* at 45-6).

In Mr. Jensen's testimony is a table of Net to Gross ratios for various programs, taken from the California PUC Energy Efficiency Policy Manual. (Ameren Ex. 6.0 at 42). Ameren asks this Commission to "deem" these ratios. Ameren contends, however, that if studies in Illinois in future years yield different numbers, it does not oppose adoption of those values in the future. Pursuant to Ameren's request, any change to these values would be adjusted prospectively, not retrospectively. (Ameren brief at 92-3).

Staff witness Mr. Zuraski points out that these values, by and large, are all .08%. To him, they appear to be "guesstimates." (*See,* Staff brief at 48-49). Staff argues that the California PUC Energy Efficiency Policy Manual does not explain the basis for 0.8% values. (*Id.*).

DCEO ask this Commission to "deem" the Net to Gross ratios temporarily, meaning that this Commission acknowledges that there is sufficient information regarding the Net to Gross ratios of these items and it determines that the "deemed" value can be accepted as the basis for both planning purposes and evaluation during the three-year planning period. The final value would be determined at the end of the plan's three-year period and applied prospectively. (DCEO brief at 19).

The AG opposes "deeming" Net to Gross ratios. The AG cites Ameren's witness Mr. Jensen, who stated that Net to Gross ratios can be strongly influenced by program design and customer characteristics. (AG brief at 7; Ameren Ex. 9.0 at 15). The AG points out that California has had decades of experience in energy efficiency and a more aggressive and comprehensive portfolio of program than Illinois will have during the next three years, which, necessarily, will create differences. Also, California has had a high level of participation. The AG also contends that information from other Midwestern states, that are much more similar to Illinois, is widely available. (AG brief at 6-8).

The ELPC, also, opposes "deeming" Net to Gross ratios. It asserts that the values in question were taken from the California DEER. However, according to the ELPC, there is no indication as to whether information from Illinois would influence the transferability and appropriateness of the DEER values. (ELPC brief at 19). It further asserts that, in discovery, Ameren was asked to supply any research it had regarding the saturation levels and vintages of appliances in Illinois. The response was none. However, at trial, an Ameren witness, Mr. Voytas, stated that he consulted a report, "Re-energizing Illinois, Building a Real Demand for Energy Efficiency." (Tr. 73-79). The ELPC asserts that the record is silent regarding whether Mr. Jensen, whose idea it was to use the California DEER information, would have been influenced by this report. (ELPC brief at 10-11).

The NRDC, additionally, opposes "deeming" Net to Gross ratios. It points out that revising values retrospectively, based on evaluation results, is not a novel concept. In fact, according to the NRDC, the California Public Utilities Commission deems such values, with a subsequent "true-up" based on evaluation study results. The NRDC further contends that the Net to Gross ratios sought to be deemed, which are California DEER values, will be updated in 2008. Thus, the values at issue here will soon be outdated. (NRDC brief at 8).

The NRDC also contends that the Commission should order Ameren not to include "spillover" in any Net to Gross ratio. This is unwise, it contends, because the evaluation amount budgeted by the General Assembly is only three percent, which is very low. (*Id.* at 9).

Analysis and Conclusions

Unlike the situation with "deemed values," the Net to Gross ratios that Ameren seeks to have this Commission "deem" concern programs, not just measures. No evidence was presented establishing that the programs referred to in the California Energy Efficiency Policy Manual contain the same elements or measures as the programs Ameren will proffer to the general public, and are, otherwise compatible with the programs in California's Net to Gross ratios. As Staff points out, these values are also "default" values, meaning that they are to be used when real analysis is not possible. Further, according to Staff, the California PUC Energy Efficiency Policy Manual does not explain the basis for the 0.8% values.

We, therefore, decline to "deem" Ameren's Net to Gross ratios. We encourage Ameren to work with the independent evaluator to develop Net to Gross ratios using information available regarding other Midwestern states, which are more similar to Illinois than California. Working closely with this evaluator should eliminate any "surprise" in the form of a Net to Gross ratio from the evaluator.

However, we decline to order Ameren to exclude "spillover" from any Net to Gross ratio calculation. While the NRDC avers, essentially, that this would save money, no evidence regarding this issue was presented at trial. It is therefore waived. Moreover, because there is no evidence on this issue, there is no showing that excluding "spillover" would not skew the ratios, how much money would be saved, or other facts that would establish that such a proposition would be a prudent course of action. Finally, Mr. Jensen testified, essentially, that calculation of "spillover" is the accepted practice in the evaluation community. There is no evidence suggesting that this is incorrect.

b. Hiring and Firing the Independent Evaluator

Staff argues that Section103(f)(7) requires a utility to provide for an "annual independent evaluation of the performance of the cost-effectiveness of a utility's portfolio of measures." (Staff brief at 43-44). According to Staff, the only way this independent evaluator can properly retain its independence is if a utility expressly relinquishes any authority to hire, fire, or limit the independent evaluator. It is Staff's opinion that because the statute requires this evaluator to report "independently" to the Commission, the Commission must maintain the right to hire and fire the evaluator. (*Id.* at 53-54).

No party has presented an argument construing this portion of the statute.

Analysis and Conclusions

We agree with Staff that there is no logical way to interpret Section 103(f)(7) other than to conclude that an evaluator who reports to the Commission is one, over which, this Commission has the ability to hire and fire. Any other conclusion would render the statutory language cited above meaningless.

V. Program Design Issues

a. Workshops

The NRDC recommends that the Commission order Staff to conduct a rulemaking, which would entail workshops, on various topics, such as the appropriate measure savings values, net to gross ratios, accounting rules for energy efficiency funds, financial compliance, and program information tracking and reporting. (NRDC brief at 15-16).

Staff took no position on this issue.

Analysis and Conclusions

The Commission finds that these workshops will provide an excellent opportunity for Commission Staff, utilities and stakeholders to anticipate, learn about and address generic technical, program design, financing, evaluation, new technology and longer-term implementation issues – including but not limited to standards regarding the accounting of the funds collected, the appropriate measure savings values, net to gross ratios, financial compliance, program information tracking and reporting, and related issues. We recognize that there resides a wealth of experience in many states that have been developing energy efficiency and demand response programs for many years, but we also recognize that much of that information and experience is not easily or readily available to Illinois utilities, Illinois Commerce Commission Staff or Illinois stakeholders in this process. Further, we recognize that a collaborative process, like these workshops, would assist all parties in developing a common knowledge base on these topics – outside of a litigation process. It should result in the development of better programs within the parameters and constraints established by the new statute. If external funding is available the workshop process should be facilitated and supported by knowledgeable experts in these fields. Staff should consult with the utilities and other stakeholders in establishing the framework and parameters for this process.

Staff is directed to conduct workshops on these and any related issues. The outcome of these workshops shall be in the form of a Staff report, setting forth Staff's recommendations regarding what rules need to be developed. We also direct Staff to investigate and prepare a report, within the next thirty (30) days, regarding the availability of external funding to support a facilitated collaborative process and if such funding is available, to begin such a facilitated collaborative process as soon as reasonably possible.

b. "Leveraging" Existing Programs

The NRDC asserts that Ameren that should be required to identify pre-existing energy efficiency programs and work with those programs' implementers to assess whether coordinating with the programs could improve portfolio cost-effectiveness. (NRDC brief at 11). Its witness, Mr. Henderson, identified three non-incentive cost

categories that could be used to capture key portfolio and program activities. They are: administration; implementation; and marketing and outreach. (*See,* NRDC Ex. 1 at 12).

Analysis and Conclusions

We encourage Ameren to identify any pre-existing energy efficiency programs and coordinate with those programs' implementers, whenever possible, to make better use of existing funds. However, there was no evidence presented at trial indicating that there are such programs, or what those programs offer. Therefore, we decline to require Ameren to "leverage" existing energy efficiency programs.

c. A Uniform Energy Efficiency Program

The ELPC asserts that "branding" (having a logo associated with energy efficiency programs) is an important part of the long-term success of Ameren's program. The ELPC's witness, Mr. Crandall, opined that the energy-efficiency programs would be enhanced by a unified, state-wide brand and marketing campaign that is supported by ComEd, Ameren, and DCEO. He acknowledged, however, that both utilities do not need to have uniform incentive levels for consumers, as the market conditions vary across the state and each utility should have the flexibility to respond to those differences. (ELPC brief at 6; ELPC Ex. 1.0 at 6).

Analysis and Conclusions

At some point in time, a uniform energy-efficient brand, such as the federal "Energy Star" label, could create easy customer identification of energy-efficient items. However, the programs are nascent. We note that the statute has provided the utilities with very little time to devise programs and get them "up and running." At this point in time, creation of a state-wide brand would only divert attention, time and money, from the creation of, and administration of, well-run energy efficiency programs. Therefore, we decline to adopt this proposal.

d. Statewide Consistency and Coordination

The NRDC and the ELPC assert that the Commission should adopt a policy of statewide consistency in energy efficiency and demand response program design, administration and implementation and evaluation, when such consistency reduces costs, reduces administrative burdens or improves program performance. (NRDC brief at 10; ELP brief at 9-10).

Analysis and Conclusions

This Commission agrees that coordination between Ameren and ComEd, as well as with DCEO, when such coordination reduces costs or administrative burdens, or, when such coordination would improve program performance, is desirable. We encourage the utilities and DCEO to coordinate as much as possible. However, we decline to *require* the utilities to do so. There are obvious differences in the territories of the two utilities regarding many items, including, but not limited to, labor costs, housing

structure, population density, and, even topography. The utilities must be able to retain the flexibility to react appropriately to those differences.

e. Development of a Statewide Energy Efficiency Web Site

The ELPC recommends that the Commission order DCEO or Ameren to build and maintain a statewide energy efficiency web site. (ELPC brief at 6). DCEO agrees that such a web site would be useful, but, it asserts that it may not have enough money to do so. Ameren has agreed to create a web site, upon which, it will post information about its energy efficiency and demand response programs. However, Ameren has not indicated that it is willing to be part of, or create, a web site with statewide information about energy efficiency and demand response.

Analysis and Conclusions

We decline to order Ameren or DCEO to provide statewide information on a web site. We note initially that most of the programs requiring customer participation will be offered by the utility, not DCEO. Therefore, logically, most consumers who desire more information about energy efficiency programs would look to the utility sponsoring the program(s) for information. Ameren has indicated that it intends to place information about its programs on its web site. We see no reason, at this time, which is, the inception of statutorily-mandated energy efficiency and demand response programs, to burden the utilities or DCEO with creation of a statewide web site.

f. The ELPC's Customer Education Issues

The ELPC asserts that this Commission must direct Ameren to better educate customers regarding steps they can take to improve efficiency and save money. (ELPC brief at 5-7).

Analysis and Conclusions

Ameren is encouraged to include any information in its marketing materials, or, on its web site, that would enable a consumer to reduce consumption. However, at this point in time, we decline to "micromanage" Ameren to the point, at which, we determine what information should be in a utility's customer education program, or, on its web site.

g. Approval of Ameren's Rider EDR

Ameren seeks Commission approval of it's tariff that imposes a charge for energy efficiency and demand response. Section 12-103 provides that Illinois electric utilities affiliated by virtue of a common parent company are considered a single electric utility, and the Rider EDR recovery mechanism is designed accordingly. (Ameren Ex. 5.0 at 3). Through Rider EDR, Ameren will determine the annual tariff factor based upon total projected delivered kWhs for Ameren, using the approved program costs for the program year (which runs from June 1 through May 31). The EDR Charge is the component of the tariff whereby the costs, fees and charges related to approved program costs result in the annual factor to be applied. The Commission can then

adjust the annual factor for amounts to be refunded to or collected from retail customers. Only those incremental costs that are incurred by Ameren or DCEO in association with energy efficiency and demand response measures after the effective date of Section 12-103 of the Act are eligible for recovery through Rider EDR. . (*Id.*).

The statute provides specific requirements for processing DCEO's approved energy efficiency measures. (Ameren Ex. 5.0 at 3). In accordance with these requirements, Ameren will apportion dollars to cover the costs of implementing DCEO's share of the portfolio of energy efficiency measures, once DCEO has executed grants or contracts for energy efficiency measures and provided Ameren with supporting documentation. Charges collected by Ameren for DCEO-implemented measures shall be submitted to DCEO pursuant to Section 605-323 of the Civil Administrative Code of Illinois, as provided for in the Statute. Ameren is not required to advance any monies to DCEO, but will rather forward such funds upon collection. (*Id.* at 3-4). Changes to the costs of energy efficiency measures as a result of plan modifications will be reflected in the amounts charged and apportioned to DCEO. Ameren may file a revised EDR Charge to reflect Commission-approved changes. Within the Program Year, (from June 1 through May 31) Rider EDR also allows Ameren to file adjustments to an EDR Charge as appropriate; that is, in the event that a revised EDR Charge would result in a better match between Rider EDR revenues and Program Costs, or where the Commission has changed the EDR Charge in the context of an Ordered Reconciliation Adjustment. (*Id.*).

Rider EDR provides for an annual reconciliation in accordance with the requirements of the Statute, which requires the Commission to initiate an annual reconciliation and to determine the required adjustment to the annual tariff factor. (*Id.*) The Ordered Reconciliation Adjustment will be reflected in the EDR Charge for the succeeding Program Year. (Ameren Ex. 5.0 at 4). Ameren will provide for the reconciliation via a tracking account, to be established by Ameren to properly account for expenditures related to Commission-approved program measures, including those approved for DCEO. (*Id.*).[2]

Ameren will also prepare and file an audit report and an annual report summarizing the operation of the automatic adjustment mechanism for EDR measures for the previous program year. The report will be submitted to the Commission in an informational filing, with copies of such report provided to the Manager of the Staff's Accounting Department and the Director of the Staff's Financial Analysis Division by August 31, beginning in 2009, and it will be verified by an Ameren officer. (Ameren Ex. 5.0 at 6). Ameren requests that the Commission approve its request for its new tariff, Rider EDR, to become effective within 30 days after the conclusion of this proceeding. The compliance tariff will include a footnote stating that "retail charges computed in

[2] Mr. Thomas, a CUB witness, expressed concern that the Commission must ensure that costs recovered in Rider EDR ultimately recover only the Ameren Illinois Utilities' actual costs incurred to implement energy efficiency and demand-response measures. (CUB Ex. 1.0 at 2, 4). However, this issue was fully resolved. (*See,* Ameren Ex. 8.0 at 5; CUB brief at 1). Mr. Thomas also testified that Ameren must maximize the value of the direct load control program and return any financial benefits to customers by modifying Rider EDR. (CUB Ex. 1.0 at 2). This issue, as well, has been resolved. (CUB brief at 1).

accordance with this Rider become operational and are applicable for service provided on and after June 1, 2008." (*Id.*).

Analysis and Conclusions

Ameren's proposed Rider EDR, with the tariff language revisions set forth in Mr. Jones' rebuttal testimony and further revised by our decision concerning a single customer charge is reasonable. Ameren is directed to file a revised Rider EDR tariff consistent with this conclusion.

h. Plan Implementation Dates

The implementation date for Ameren's energy efficiency programs is set by the Statute. It states that the utility will implement cost effective energy efficiency measures that reduce 0.2% of energy delivered in the year commencing June 1, 2008. (220 ILCS 5/12-103(b)(1)). However, Ameren seeks Commission approval of its request to make energy efficiency and demand response products and service options available as soon as possible. (Ameren Ex. 2.0 at 37).

Analysis and Conclusions

Ameren's request for Commission authorization to commence its Plan activities before the statutory date of June 1, 2008, is a reasonable one and it is approved.

V. Findings and Ordering Paragraphs

This proceeding is governed by Section 12-103 of the Public Utilities Act, which was enacted in the summer of 2007. That legislation establishes a policy in Illinois to use cost-effective energy efficiency and demand response measures to reduce electricity delivery load. Moreover, it establishes certain firm savings goals and requires the Illinois electric utilities to develop and submit specific plans to meet those goals.

As is required by Section 12-103, the Ameren Illinois Utilities and the Illinois Department of Commerce and Economic Opportunity filed their 2008-2010 Energy Efficiency and Demand Response Plan with the Commission on November 15, 2007. The statute directs the Commission to "issue an order approving or disapproving [the] plan within 3 months after its submission." (220 ILCS 5/12-103(f)). This extremely accelerated docket is the result of the three-month time-frame laid out by the General Assembly. The Commission's guidelines for approving or disapproving the plan are set forth in the statutory filing requirements of 12-103(f)(1)-(7). If the evidence in the record shows that a utility has met each of these seven filing requirements, its plan should be approved.

For the reasons stated herein, we conclude that Energy Efficiency and Demand Response Plan filed by the Ameren Illinois Utilities and the Illinois Department of Commerce and Economic Opportunity meets Section 12-103's requirements, is consistent with Section 12-103's objectives, and, it is hereby approved, subject to the conditions stated herein. The Commission, having considered the entire record, and being fully advised in the premises, is of the opinion and finds that:

(1) The Ameren Illinois Utilities are Illinois corporations engaged in the transmission, sale and distribution of electricity to the public in Illinois, and are public utilities within the meaning of Section 3-105 of the Public Utilities Act, and an electric utility as defined in Section 16-102 of the Public Utilities Act;

(2) the Illinois Department of Commerce and Economic Opportunity is a state agency that is statutorily obligated, pursuant to 220 ILCS 5/12-103(e), to implement 25 percent of a utility's energy efficiency and demand response plan; therefore, pursuant to statute, this portion of the plan is subject to Commission approval before implementation;

(3) the Commission has subject-mater jurisdiction and jurisdiction over the Ameren Illinois Utilities and the Illinois Department of Commerce and Economic Opportunity;

(3) the findings of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby incorporated into these findings;

(4) the testimony and exhibits admitted into the record provide substantial evidence that the 2008-2010 Energy Efficiency and Demand Response Plan filed by the Ameren Illinois Utilities and the Illinois Department of Commerce and Economic Opportunity meet the filing requirements of Section 12-103(f) of the Public Utilities Act, subject to the conditions and requirements herein; and

(5) the testimony and exhibits admitted into the record further provide evidence that the proposed mechanism for recovering its Incremental Costs that are prudently incurred in association with the energy efficiency and demand response measures, is just and reasonable.

(7) as the record in docket 07-0541 was severed and combined with the record in this docket, the Chief Clerk should mark the record in that docket "Heard and Taken" and otherwise close that docket.

IT IS THEREFORE ORDERED by the Commission that the Petition filed by the Ameren Illinois Utilities and the Illinois Department of Commerce and Economic Opportunity requesting approval of their 2008-2010 Energy Efficiency and Demand Response Plan and the proposed Rider is hereby granted, consistent with the conclusions contained herein.

IT IS FURTHER ORDERED that the Ameren Illinois Utilities are hereby authorized and directed to file tariffs containing terms and provisions consistent with and reflective of the findings and determinations made in this Order.

IT IS FURTHER ORDERED that all motions, petitions, objections and other matters in this proceeding that remain unresolved are hereby disposed of in a manner consistent with the conclusions herein.

IT IS FURTHER ORDERED that the Chief Clerk of this Commission is directed to mark the record in docket 07-0541 “Heard and Taken” and otherwise close that docket.

IT IS FURTHER ORDERED that, subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Admin. Code 200.880, this Order is final; it is not subject to the Administrative Review Law.

By Order of the Commission this 6th day of February, 2008.

(SIGNED) CHARLES E. BOX

Chairman